the trial judge's decision as to the qualifications of the particular witness. See I WIGMORE ON EVIDENCE 569.

FINDING LOST PROPERTY—RIGHTS OF FINDER AND OWNER OF PREMISES.—A workman, while engaged in excavating a cellar under an old house, discovered about five inches below the surface of the ground an earthen jar containing $1,325 in gold pieces. In a suit between the workman, the owner of the premises, and the administratrix of the estate of one alleged to have been the owner, *held,* that as against the owner of the land the workman was entitled thereto as treasure-trove, since, in the absence of legislation, title to such property belongs to the finder as against the world except the true owner, and the owner of the soil in which treasure-trove is found acquires no title thereto by virtue of the ownership of the soil. *Vickery v. Hardin* (Ind. App.), 133 N. E. 922.

Treasure-trove is generally defined as any gold or silver, in coin or bullion, found hidden in the earth or other private place, but not lying on the ground, the owner of the treasure being unknown. I BL. COM. 295; 17 R. C. L. 1200. In the case of *Huthmacher v. Harris's Administrators,* 38 Pa. St. 491, where notes and bank bills, in addition to gold and silver coins, were found in a secret drawer, it was determined that the finder held the property as treasure-trove, "which may, in our commercial day, be taken to include the paper representatives of gold and silver, especially where found hidden with both these precious metals." In England, formerly, treasure-trove belonged to the finder; later it was decided it should go to the King for reasons of state and the coinage. I BL. COM. 296. But in this country not infrequently it is said that the law relating to treasure-trove has been merged into the law of the finder of lost property, which from the time of *Armory v. Delamirie,* 1 Strange 505, has been that the finder is entitled to possession of the lost property as against all the world except the true owner. *Danielson v. Roberts,* 44 Ore. 108; *Roberson v. Ellis,* 58 Ore. 219; *Huthmacher v. Harris's Administrators, supra; Weeks v. Hackett,* 104 Me. 264, 71 Atl. 858.

It has been held in numerous cases, however, that where money or other property is voluntarily laid in the place where it is found and then forgotten, the owner of the shop, bank, railway car, or other place where it was left is the proper custodian rather than the person who happens to discover it. *McAvoy v. Medina,* 11 Allen (Mass.) 548; *Lawrence v. State,* 1 Humph. (Tenn.) 227; *Kincaid v. Eaton,* 98 Mass. 139; *Foster v. Fidelity Safe Deposit Co.,* 264 Mo. 89; *Foulke v. N. Y. Consolidated R. Co.,* 228 N. Y. 269, 127 N E. 237. And likewise, where property, not falling within the definition of treasure-trove, is found imbedded in the soil, the owner of the land is entitled to the possession as against the finder. *Livermore v. White,* 74 Me. 452, where hides had been left in a vat of an old tannery; *Ferguson v. Ray,* 44 Ore. 557, where a sack of gold-bearing quartz was found buried; *Burdick v. Chesebrough,* 88 N. Y. Supp. 13, where valuable earthenware was unearthed; *South Staffordshire Waterworks Co. v. Shar-*

man, 65 L. J. (Q. B.) 460, where two gold rings were dug up in cleaning out a pool; *Goodard v. Winchell*, 86 Iowa 71, 52 N. W. 1124, where an aerolite was found imbedded in the soil; *Elwes v. The Brigg Gas Co.*, 55 L. J. Ch. 734, where a prehistoric boat was discovered during the course of excavating.

In *South Staffordshire Waterworks Co. v. Sharman, supra,* the court said: "The possession of the land carries with it, in general by our law, possession of everything which is attached to or under the land, and, in the absence of better title elsewhere, the right to possess it also. And it makes no difference that the possessor is not aware of the thing's existence." Again. "The general principle is that where anyone is in possession of house or land which he occupies and over which he manifests an intention of exercising a control and preventing unauthorized interference, and something is found in that house or on that land by a stranger or a servant, the presumption is that the possession of the article found is in the owner of the *locus in quo.*" *Ferguson v. Ray, supra,* was deemed to fall within this principle, and the *South Staffordshire Waterworks Co.* case was cited as controlling.

In the absence of statute, our courts have never decided that treasure-trove, or any part of it, should go to the state, subject to the claim of the true owner. 26 AM. & ENG. ENCY. LAW [Ed. 1] 538. As between the finder and the owner of the premises, it is believed that to make their rights to property dug up from the soil depend upon the inquiry whether such property falls within or without the definition of treasure-trove is to determine their rights upon no sound principle of our law. It is believed the fundamental inquiry in these cases, the true owner being unknown, should be whether the property was in the possession of the owner of the premises at the time of its discovery. If not, then the finder or discoverer would be entitled to continue to possess the property as against all but the true owner; if so, then the owner of the premises would be entitled to hold the property as against the finder by virtue of his prior and continued possession up till the time when that possession was disturbed by the finder. See HOLMES, THE COMMON LAW, pp. 206-246.

This view is not inconsistent with many of the cases of that class where the finder has been given possession, as against the owner of the premises, of property found thereon, for generally the property was found on premises thrown open to the public or to which the public was invited, and so over which the owner was not exercising his right of exclusive control. See *Hamaker v. Blanchard,* 90 Pa. St. 377; *Hoagland v. Forest Park Highlands Amusement Co.*, 170 Mo. 335, 70 S. W. 878; *Bridges v. Hawkesworth,* 21 L. J. Q. B. 75. This latter case was distinguished by the court in the *South Staffordshire Waterworks* case, *supra,* on this very ground.

LANDLORD AND TENANT—RENT—EFFECT OF CHANGE OF LAW UPON OBLIGATION.—In 1914 premises were leased for ten years "for the purpose of carrying on liquor business." After January 1, 1920, the tenant was unable to secure license to operate a liquor store, the Eighteenth Amendment hav-